

Minutes and Informal Instructions of the Open Meeting of
Thursday, January 22, 2009
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5-US-114 - Investigation to Consider Proposed Changes to Records Retention Requirements for Electric, Gas and Water Utilities

The Commission reopened its investigation in docket 5-US-114 for the purpose of correcting Records Retention Requirements for electric, gas and water utilities.

The Commission directed the Gas and Energy Division to draft an order consistent with its discussion.

6680 - Wisconsin Power and Light Company's Request for Authorization to Implement the Shared Savings Program as a Voluntary Utility-Administered Energy Efficiency Program under 2005 Wisconsin Act 141

Wisconsin Power and Light Company's Request for Authorization to Implement a Voluntary Renewable Resource Program under 2005 Wisconsin Act 141

The Commission modified and approved the 2009 voluntary energy efficiency and renewable resource programs filed on behalf of Wisconsin Power and Light Company.

The Commission directed the Gas and Energy Division to draft an order consistent with its discussion.

6680-FR-101 - Fuel Rules Proceeding to Adjust Wisconsin Power and Light Company Electric Rates Originally Set in Docket 6680-UR-115

The Commission approved the proposed refund of \$18.0 million by Wisconsin Power and Light Company (WP&L) to its retail electric ratepayers for overcollection of fuel costs during the period April 25 through December 31, 2008, based on a stipulation agreement between WP&L, the Citizens' Utility Board and the Wisconsin Industrial Energy Group filed January 12, 2009.

The Commission directed the Gas and Energy Division to draft an order consistent with its decision.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Memorandum

January 9, 2009

FOR COMMISSION AGENDA

TO: The Commission

FROM: Robert Norcross, Administrator
Candice Spanjar, Audit Manager
Gas and Energy Division

RE: Investigation To Consider Proposed Changes to Records
Retention Requirements for Electric, Gas and Water Utilities

5-US-114

Suggested Minute: The Commission reopened its investigation in docket 5-US-114 for the purpose of correcting Records Retention Requirements for Electric, Natural Gas, and Water Utilities.

The Wisconsin Utilities Association (WUA) applied to the Commission for approval to revise the records retention requirements in the Commission Records Retention Regulations for Electric, Natural Gas, and Water Utilities (Retention Regulations) adopted in 1992. The Commission issued its *Final Decision* in this docket on December 12, 2006, approving WUA's request. The impetus for the WUA proposal was a change to the Federal Energy Regulatory Commission's (FERC) records requirements contained in FERC Order RM99-8-00. A summary of the new requirements was attached as Attachment A to the December 12, 2006, *Final Decision*.

In applying these revised Retention Regulations, it was noted that the actual text in a number of cells in Attachment A to the Final Decision is incomplete or incorrect. Without this corrected text, Wisconsin utilities are unable to fully implement the Retention Requirements.

- (1) The commission at any time, upon notice to the public utility and after opportunity to be heard, may rescind, alter or amend any order fixing rates, tolls, charges or schedules, or any other order made by the commission, and may reopen any case following the issuance of an order in the case, for any reason.

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(3) Any order rescinding, altering, amending or reopening a prior order shall have the same effect as an original order.”

Wis. Stat. § 196.39(1) and (3)

In the absence of relevant case law, a logical reading of the statute suggests that it is the affected utility or in this case the WUA, once noticed, that must have the opportunity to be heard. Neither condition is a problem since the change is being implemented to correct a clerical error at the request of the WUA. Please note that “the opportunity to be heard” is distinguishable from a “hearing” which “has an established meaning in equity law” and is more akin to a contested case hearing. *Wisconsin Telephone Co. v. PSC*, 232 Wis. 274, 294, 287 N.W. 122, 133 (1939). Therefore, the Commission as authorized under Wis. Stat. § 196.39(1) and (3) may reopen docket 5-US-114 for the purpose of correcting records retention requirements for electric, gas and water utilities.

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